

**United States Bankruptcy Court
Eastern District of Wisconsin**

In re EUGENE ARTHUR KLANN and PATRICIA ANN KLANN
Debtor(s)

Case No. 11-30317-svk
Chapter 13

CHAPTER 13 PLAN

NOTICES

NOTICE TO DEBTORS: This plan is the model plan as it appears in the Appendix to the Local Rules of the Bankruptcy Court for the Eastern District of Wisconsin on the date this plan is filed. **THIS FORM PLAN MAY NOT BE ALTERED IN ANY WAY OTHER THAN WITH THE SPECIAL PROVISIONS IN SECTION 10.**

☒ A check in this box indicates that the plan contains special provisions set out in Section 10 below.

NOTICE TO CREDITORS: YOUR RIGHTS WILL BE AFFECTED BY THIS PLAN. You should read this Plan carefully and discuss it with your attorney. If you oppose any provision of this plan you must file a written objection. The time to file an objection will be in a separate notice. Confirmation of this Plan by the Court may modify your rights. You may receive less than the full amount of your claim and/or a lesser interest rate on your claim.

You must file a proof of claim in order to be paid under this Plan. Payments distributed by the Trustee are subject to the availability of funds.

THE PLAN

Debtor or Debtors (hereinafter "Debtor") propose this Chapter 13 Plan:

1. Submission of Income.

- ☐ Debtor's annual income is above the median for the State of Wisconsin.
☒ Debtor's annual income is below the median for the State of Wisconsin.

(A). Debtor submits all or such portion of future earnings or other future income to the Chapter 13 Trustee (hereinafter "Trustee") as is necessary for the execution of this Plan.

(B). Tax Refunds (Check One):

- ☒ Debtor is required to turn over to the Trustee 50% of all net federal and state income tax refunds received during the term of the plan.
☐ Debtor will retain any net federal and state tax refunds received during the term of the plan.

2. Plan Payments and Length of Plan. Debtor shall pay the total amount of \$39,285.00 by paying \$1,091.25 per (check one) ☒ month ☐ week ☐ every two weeks ☐ semi-monthly to Trustee by ☐ Periodic Payroll Deduction(s) from (check one) ☐ Debtor ☐ Joint Debtor or by ☒ Direct Payment(s) for the period of 36 months. The duration of the plan may be less if all allowed claims in every class, other than long-term claims, are paid in full.

☐ If checked, plan payment adjusts as indicated in the special provisions located at Section 10 below.

3. Claims Generally. The amounts listed for claims in this Plan are based upon Debtor's best estimate and belief. Creditors may file a proof of claim in a different amount. Objections to claims may be filed before or after confirmation.

The following applies in this Plan:

CHECK A BOX FOR EACH CATEGORY TO INDICATE WHETHER THE PLAN OR THE PROOF OF CLAIM CONTROLS:

		<u>Plan Controls</u>	<u>Proof of Claim Controls</u>
A.	Amount of Debt	<input type="checkbox"/>	<input checked="" type="checkbox"/>
B.	Amount of Arrearage	<input type="checkbox"/>	<input checked="" type="checkbox"/>
C.	Replacement Value - Collateral	<input checked="" type="checkbox"/>	<input type="checkbox"/>
D.	Interest Rate - Secured Claims	<input checked="" type="checkbox"/>	<input type="checkbox"/>

FAILURE TO CHECK A BOX UNDER A CATEGORY IN THIS SECTION WILL MEAN THAT A PROPERLY FILED PROOF OF CLAIM WILL CONTROL FOR THE CORRESPONDING SUB-PARAGRAPH OF THE PLAN.

4. Administrative Claims. Trustee will pay in full allowed administrative claims and expenses pursuant to 507(a)(2) as set forth below, unless the holder of such claim or expense has agreed to a different treatment of its claim.

(A). Trustee's Fees. Trustee shall receive a fee for each disbursement, the percentage of which is fixed by the United States Trustee, not to exceed 10% of funds received for distribution.

(B). Debtor's Attorney's Fees. The total attorney fee as of the date of filing the petition is \$3,500.00. The amount of \$1,225.00 was paid prior to the filing of the case. The balance of \$2,275.00 will be paid through the plan. Pursuant to 507(a)(2) and 1326(b)(1), any tax refund submission received by the trustee will first be used to pay any balance of Debtor's Attorney's Fees.

Total Administrative Claims: \$ 2,275.00

5. Priority Claims.

(A). Domestic Support Obligations (DSO).

☒ If checked, Debtor does not have any anticipated DSO arrearage claims or DSO arrearage claims assigned, owed or recoverable by a governmental unit.

☐ If checked, Debtor has anticipated DSO arrearage claims or DSO arrearage claims assigned, owed or recoverable by a governmental unit. Unless otherwise specified in this Plan, priority claims under 11 U.S.C. 507(a)(1) will be paid in full pursuant to 11 U.S.C. 1322(a)(2). A DSO assigned to a governmental unit might not be paid in full. 11 U.S.C. 507(a)(1)(B) and 1322(a)(2).

(a) DSO Creditor Name and Address	(b) Estimated Arrearage Claim	(c) Total Paid Through Plan
	\$	\$
Totals	\$	\$

(B). Other Priority Claims (e.g., tax claims). These priority claims will be paid in full through the plan.

(a) Creditor	(b) Estimated claim
	\$
Totals:	\$

Total Priority Claims to be paid through plan: \$ -0-

6. **Secured Claims.** The holder of a secured claim shall retain the lien securing such claim until the earlier of the payment of the underlying debt determined under non-bankruptcy law or discharge under Section 1328. The value, as of the effective date of the plan, of property to be distributed under the plan on account of such claim is not less than the allowed amount of the claim.

(A). Claims Secured by Personal Property.

☐ If checked, The Debtor does not have claims secured by personal property which debtor intends to retain. Skip to 6(B).

☒ If checked, The Debtor has claims secured by personal property which debtor intends to retain.

(i). **Adequate protection payments.** Creditor must file a proof of claim to receive adequate protection payments. Upon confirmation the treatment of secured claims will be governed by Paragraph (ii) below. The Trustee shall make the following monthly adequate protection payments to creditors pursuant to 1326(a)(1)(C):

(a) Creditor	(b) Collateral	(c) Monthly Adequate protection payment amount
Wells Fargo, P. O. Box 660217, Dallas, TX 75266-0217	2005 Chevrolet Pickup	\$464.30
	Total monthly adequate protection payments:	\$464.30

(ii). **Post confirmation payments.** Post-confirmation payments to creditors holding claims secured by personal property shall be paid as set forth in subparagraphs (a) and (b).

(a). Secured Claims - Full Payment of Debt Required.

☒ If checked, the Debtor has no secured claims which require full payment of the underlying debt. Skip to (b).

☐ If checked, the Debtor has secured claims which require full payment of the underlying debt. Claims listed in this subsection consist of debts (1) secured by a purchase money security interest in a vehicle; (2) which debt was incurred within 910 days of filing the bankruptcy petition; and (3) which vehicle is for the personal use of the debtor; **OR**, if the collateral for the debt is any other thing of value, the debt was incurred within 1 year of filing. See 1325(a)(5). After confirmation the Trustee will pay the monthly payment in column (f).

(a) Creditor	(b) Collateral	(c) Purchase Date	(d) Claim Amount	(e) Interest Rate	(f) Estimated Monthly Payment	(g) Estimated Total Paid Through Plan
			\$		\$	\$
TOTALS			\$		\$	\$

(b). **Secured Claims - Replacement Value.**

☐ If checked, the Debtor has no secured claims which may be reduced to replacement value. Skip to (B).

☒ If checked, the Debtor has secured claims which may be reduced to replacement value. The amount of the debt or the replacement value assigned to the property is in column (d).

(a) Creditor	(b) Collateral	(c) Purchase Date	(d) Replacement Value/Debt	(e) Interest Rate	(f) Estimated Monthly Payment	(g) Estimated Total Paid Through Plan
Wells Fargo P. O. Box 660217, Dallas, TX 75266-0217	2005 Chevrolet Pickup	03/08/2006	\$ 15,667.00	4.25	\$464.30	\$16,714.80
TOTALS			\$ 15,667.00		\$464.30	\$16,714.80

(B). **Claims Secured by Real Property Which Debtor Intends to Retain.**

(i) ☐ If checked, the Debtor does not have any claims secured by real property that Debtor intends to retain. Skip to (C).

☐ If checked, the Debtor has claims secured by Real Property that debtor intends to retain. Debtor will make all post-petition mortgage payments directly to each mortgage creditor as those payments ordinarily come due. These regular monthly mortgage payments, which may be adjusted up or down as provided for under the loan documents, are due beginning the first due date after the case is filed and continuing each month thereafter, unless this Plan provides otherwise.

(a) Creditor	(b) Property description
Beneficial Wisconsin Inc, Post Office Box 4153-K, Carol Stream, IL 60197-4153, <u>First Mortgage only Account Number450-9 to be paid through the Plan @ \$479.08 per month, Second Mortgage Account Number116-8 to be stripped and treated as unsecured, see Special Provisions in Section 10</u>	Homestead located at 306 Terrace Ave., Marinette, WI 54143

(ii) ☐ If checked, the Debtor has an arrearage claim secured by Real Property that the Debtor will cure through the Plan. Trustee may pay each allowed arrearage claim the estimated monthly payment indicated in column (d) until paid in full.

(a) Creditor	(b) Property	(c) Estimated Arrearage Claim	(d) Estimated Monthly Payment	(e) Estimated Total Paid Through Plan
		\$	\$	\$
TOTALS		\$	\$	\$

Total Secured Claims to Be Paid Through the Plan: \$33,961.68

(C). **Surrender of Collateral.** This Plan shall serve as notice to creditor(s) of Debtor's intent to surrender the following collateral. Any secured claim filed by a secured lien holder whose collateral is surrendered at or before confirmation will have their secured claim treated as satisfied in full by the surrender of the collateral.

(a) Creditor	(b) Collateral to be surrendered

7. Unsecured Claims.

(A). Debtor estimates that the total of general unsecured debt not separately classified in paragraph (b) below is \$ 46,469.36. After all other classes have been paid, Trustee will pay to the creditors with allowed general unsecured claims a pro rata share of not less than \$1,000.00 or 2.15%, whichever is greater.

(B). Special classes of unsecured claims:

Total Unsecured Claims to Be Paid Through the Plan: \$1,000.00

8. Executory Contracts and Unexpired Leases.

☒ If checked, the Debtor does not have any executory contracts and/or unexpired leases.

☐ If checked, the Debtor has executory contracts and/or unexpired leases. The following executory contracts and unexpired leases are assumed, and payments due after filing of the case will be paid directly by Debtor. Debtor proposes to cure any default by paying the arrearage on the assumed leases or contracts in the amounts projected in column (d) at the same time that payments are made to secured creditors after confirmation.

(a) Creditor	(b) Nature of lease or executory contract	(c) Estimated arrearage claim	(d) Estimated monthly payment
		\$	\$
		Totals:\$	\$

All other executory contracts and unexpired leases are rejected upon confirmation of the plan.

9. Property of the Estate. Property of the estate shall revert in Debtor (Check one):

- ☐ Upon Confirmation; or
☒ Upon Discharge

10. Special Provisions. Notwithstanding anything to the contrary set forth above, the Plan shall include the provisions set forth below. **The provisions will not be effective unless there is a check in the notice box preceding Paragraph 1 of this plan.**

(a) Debtor has claims secured by Real Property that Debtor intends to retain. The ongoing postpetition payments on the Debtor's **first mortgage**, loan account number450-9, will be paid **through the plan**, beginning with the payment due July 12, 2011, to Beneficial, the mortgage creditor, as long as the plan continues. The loan number is450-9, the current payment amount is \$479.08, and the current address for payments is Beneficial, Post Office Box 4153-K, Carol Stream, IL 60197-4153.

(b) **Mortgage Subject to Lien Avoidance (Payment as General Unsecured).** The lien of a creditor holding an avoidable lien (whether under state law, the Bankruptcy Code or otherwise) will be avoided; accordingly, creditors holding claims secured by avoidable liens shall be paid as general unsecured claimants. At this point the Debtors believe that the following creditor is included in this category:

Beneficial Wisconsin Inc., Post Office Box 4153-K, Carol Stream, IL 60197-4153, Account Number116-8, pursuant to a second mortgage on Debtor's homestead recorded at the Marinette County Register of Deeds on September 14, 2006 at 04:12:49 PM as Document #699442, in the current amount of approximately \$13,365.96.

(c) Debtors shall timely file all necessary tax returns during the plan and copy trustee at time of filing.

(d) Debtors shall provide copies of any relevant documents requested by the Trustee within 14 days of request for production and other documents as required by the Local Rules.

(e) Trustee shall make no payments to unsecured creditors until attorney fees, secured claims payable through the Plan and real property arrearage claims are paid in full.

(f) **OTHER SPECIAL PROVISIONS:**

The Debtor specifically invokes and intends for these plan provisions to invoke and to reserve the Debtor's rights under the provisions of 11 U.S.C. Section 524(i).

1. Postpetition Mortgage Payments. Payments received by holders and/or servicers of mortgage claims for ongoing postpetition installment payments shall be applied and credited to the debtor's mortgage account as if the account were current and no prepetition default existed on the petition date in the order of priority specified in the note and security agreement and applicable nonbankruptcy law. Postpetition installment payments made in a timely manner under the terms of the note shall be applied and credited without penalty.

2. Postpetition Payment Changes. Holders and/or servicers of mortgage claims shall make adjustments to the ongoing installment payment amount as required by the note and security agreement and applicable nonbankruptcy law, including

changes based on an escrow analysis for amounts required to be deposited in any escrow account or based on an interest rate provision in an adjustable rate mortgage. Holders and/or servicers shall timely notify the Debtor and the Trustee of such payment adjustments and any shortage, deficiency or surplus of funds in any escrow account.

3. **Prepetition Arrearages.** Payments on prepetition arrearages disbursed by the trustee to holders and/or servicers of mortgage claims shall be applied and credited only to the prepetition arrearages necessary to cure the default, which shall consist of amounts listed on the allowed proof of claim and authorized by the note and security agreement and applicable nonbankruptcy law. ***Upon confirmation the holder/servicers shall treat the mortgage as if it were contractually current for the purpose of assessing or adding any additional fees or charges to the loan obligation of the Debtor based solely on the pre-petition default.***
4. **Mortgage Holder/Servicer Obligations.** The holder and/or servicer of a mortgage claim shall provide to the debtor a notice of any fees, expenses, or charges which have accrued during the bankruptcy case on the mortgage account and which the holder and/or servicer contends are 1) allowed by the note and security agreement and applicable nonbankruptcy law, and 2) recoverable against the debtor or the debtor's account. The notice shall be sent annually, beginning within 30 days of the date one year after entry of the initial plan confirmation order, and each year thereafter during the pendency of the case, with a final notice sent within 30 days of the filing of the trustee's final account under Bankruptcy Rule 5009.
5. **Discharge of Security Interest.** Secured creditors' liens on the personal property will be released the earlier of the date the debt is paid in full under nonbankruptcy law or the debtor is granted discharge under §1328 in this case. The creditor shall within 30 days of receipt of the notice of the entry of the Discharge Order, execute a release of its security interest on the said title or certificate, in the space provided therefor on the certificate or as the Division of Motor Vehicles prescribes, and mail or deliver the certificate and release to the Debtor or the attorney for the Debtor. Confirmation of this plan shall impose an affirmative and direct duty on each such secured party to comply with the provision. This provision shall be enforced in a proceeding filed before the Bankruptcy Court and each such enforcement proceeding may be filed by the Debtor in this case either before or after the entry of the discharge order and either before or after the closing of this case. The Debtor specifically reserves the right to file a motion to reopen this case under Section 350 of Title 11 of the United States Code to pursue the rights and claims provided for herein.
6. **Monthly Statements.** Secured creditors to be paid directly by the Debtor SHALL mail to the Debtor the customary monthly notices or coupons or statements notwithstanding the automatic stay.

11. Direct Payment by Debtor. Secured creditors and lessors to be paid directly by the Debtor may continue to mail to Debtor the customary monthly notices or coupons or statements notwithstanding the automatic stay.

12. Modification. Debtor may file a pre-confirmation modification of this plan that is not materially adverse to creditors without providing notice to creditors if the Debtor certifies that said modification is not materially adverse to said creditors.

Date June 29, 2011

Signature /s/ Eugene Arthur Klann

Eugene Arthur Klann, Debtor

Date June 29, 2011

/s/ Patricia Ann Klann

Patricia Ann Klann, Debtor

Attorney /s/ Michael J. Palid

Attorney Michael J. Palid
WI Bar #01007473
667 State St
Marinette, WI 54143-1644
(715) 735-3592
FAX: (715) 735-9588
e-mail: mjpalid@new.rr.com